

304.9-350 Consultant's compensation prohibited -- Exceptions.

- (1) A consultant who is also licensed as an agent shall not, directly or indirectly, receive or share in both a fee and other compensation paid, directly or indirectly, from an insured or any insurer with respect to any insurance or annuity contract procured, renewed, continued, modified, terminated, or otherwise disposed of pursuant to any recommendation given or transaction engaged in by the licensee under this license or any license issued under this code; but this subsection shall not preclude any consultant or agent from receiving or sharing in both a fee and other compensation for services rendered in connection with the administration of a pension, profit-sharing, group life insurance, group health insurance, or deferred compensation plan.
- (2) If the licensee has received or is to receive any fee, commission, or compensation from the insured or proposed insured, or from any other person other than the insurer, directly or indirectly, with respect to any insurance transaction or proposed insurance transaction, or with respect to any insurance or annuity contract existing or proposed, it shall conclusively be presumed that the licensee was acting as a consultant with respect to such transaction or contract.
- (3) No person licensed as a consultant under this section may receive any fee, commission or thing of value for examining, appraising, reviewing or evaluating any insurance policy, bond, annuity or pension or profit-sharing contract, plan or program or for making recommendation or giving advice with regard to any of the above, unless such compensation is based upon a prior written agreement signed by the party to be charged and specifying or clearly defining the amount or extent of such compensation and the services to be rendered. A copy of every such agreement shall be retained by the licensee for not less than five (5) years after such services have been fully performed.
- (4) A person licensed as a consultant under this section shall disclose in the agreement to the party to be charged whether he owns an interest in an insurance agency.
- (5) No person licensed as a consultant may receive any compensation, direct or indirect, as a result of:
 - (a) The sale of insurance or annuities to; or
 - (b) The use of securities or trusts in connection with pensions for any person to whom any such licensee has performed any related consulting service for which he has received a fee or contracted to receive a fee within the preceding twelve (12) months unless such compensation is provided for in the agreement required.
- (6) No person licensed as an insurance consultant under this section may be an executive in, or employee of, or own stock which gives him a majority interest, direct or indirect, in any authorized insurer. No consultant may recommend or encourage the purchase of insurance, annuities, or securities from any authorized insurer in which any member of his immediate family holds an executive position or holds a majority interest.

Effective: July 15, 1982

History: Amended 1982 Ky. Acts ch. 171, sec. 4, effective July 15, 1982. -- Created 1970 Ky. Acts ch. 301, subtit. 9, sec. 35, effective June 18, 1970.